

ORDINANCE NO. 72-12**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE III  
OF THE FORT SMITH MUNICIPAL CODE  
REGARDING INITIATIVE AND REFERENDUM**

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**BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE  
CITY OF FORT SMITH, ARKANSAS, THAT:**

**SECTION 1:** Chapter 2, Article III, Section 2-67 of the Fort Smith Municipal Code  
is hereby amended to read as follows:

All initiative petitions shall be addressed to the city clerk and shall contain the title and text of the measure proposed. All initiative petitions shall be filed with the city clerk at least ninety (90) days before the next regular election, either state, congressional or municipal, at which the proposed measure is to be voted upon.

**SECTION 2:** Chapter 2, Article III, Section 2-68 of the Fort Smith Municipal Code  
is hereby amended to read as follows:

All referendum petitions shall be addressed to the city clerk and each petition shall identify the measure sought to be referred by stating at least the number, date of passage and full title of the measure sought to be referred. Additionally, a full and correct copy of the exact text of the measure sought to be referred shall be attached to the petition and to any separately circulated part of the petition during the time that the petition is being circulated. All referendum petitions shall be filed with the city clerk on or before 5:00 p.m. on the thirty-first (31<sup>st</sup>) day after the date of passage of the measure sought to be referred. If the thirty-first (31<sup>st</sup>) day occurs on a Saturday, Sunday, or holiday recognized by the City of Fort Smith, or on any other day when city offices are officially closed, the petition and ballot title may be filed by 5:00 p.m. on the following business day.

**SECTION 3:** Chapter 2, Article III, Section 2-69 of the Fort Smith Municipal Code  
is hereby amended to read as follows:

At the time of filing either an initiative petition or a referendum petition with the city clerk, the exact title to be used on the ballot shall be submitted by the petitioners separately from the petition and separately from the text of the proposed referred or initiated matter.

**SECTION 4:** Chapter 2, Article III, Section 2-71 of the Fort Smith Municipal Code

is hereby amended to read as follows:

After receipt of an initiative petition or referendum petition, the city clerk shall within thirty (30) days determine the sufficiency of the petition. The city clerk may make all necessary factual investigations and may request the counsel of the qualified and licensed attorneys-at-law contracted to provide legal services pursuant to Sections 2-111 -- 2-113 of this Code in reaching a determination as to the sufficiency of the petition. The city clerk may, after giving notice by publication for one (1) insertion in a local newspaper, hold a public hearing at which time the clerk shall hear all persons who wish to be heard on the question of whether such petition is sufficient. Only the signatures of legally registered voters shall be counted upon petitions. If the city clerk determines that the petition is sufficient, the city clerk shall certify that determination in writing to the sponsors of such petition and to the board of directors. If the city clerk shall decide any petition or ballot title to be insufficient, the city clerk shall without delay notify the sponsors of such petition and the board of directors, and permit the sponsors of the petition ten (10) days for correction or amendment. After expiration of the ten (10) day period or upon submission of any correction or amendment, whichever occurs first, the city clerk shall issue a final certification, whether of sufficiency or insufficiency, in writing to the sponsors and shall notify the board of directors. The decision of the city clerk shall be final unless suit is brought in the Circuit Court of Sebastian County, Fort Smith District, within thirty (30) days of the date of the clerk's certification of either insufficiency or sufficiency.

**SECTION 5:** Chapter 2, Article III, Section 2-72 of the Fort Smith Municipal Code

is hereby amended to read as follows:

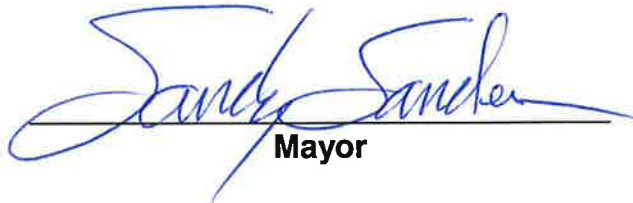
- (a) In the case of an initiative petition, the city clerk shall, upon certification of the sufficiency of the petition and of the ballot title, notify the county board of election commissioners and the board of directors that the measure should be placed on the ballot at the next regular election, either state, congressional or municipal, and the city clerk shall submit a copy of the ballot title for the initiated matter to the county board of election commissioners.
- (b) In the case of a referendum petition, the city clerk shall, upon certification of the sufficiency of the petition and of the ballot title, notify the county board of election commissioners and the board of directors that the measure should be placed on the ballot at the next regular state, congressional or municipal election unless the petition expressly calls for a special election

or, absent a call for a special election in the petition itself, the board of directors orders a special election. If the petition expressly calls for a special election, the board of directors shall fix the date for the special election on the referendum measure. Whether pursuant to petition or order of the board of directors, the date of the special election shall be set no more than one hundred twenty (120) days after the date of certification of the petition's sufficiency by the city clerk. The city clerk shall submit a copy of the ballot title to the county board of election commissioners and advise the county board of election commissioners of the date of any special election determined by the board of directors.

**SECTION 6:** Emergency Clause. In order to comply with the requirements of the Arkansas Constitution as it relates to providing a mechanism by which voters may, by referendum or initiative, submit an issue to the vote of the citizens, the Board of Directors determines that there is an immediate need for the effectiveness of these proposed Code changes, and thus an emergency is declared to exist and this Ordinance will be in full force and effect from this date.


**PASSED AND APPROVED** this 18<sup>th</sup> day of September, 2012.

**APPROVED:**

  
Mayor

**ATTEST:**

  
City Clerk

Approved as to form  
  
Publ 1 Time